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BY ECF

Honorable Judge Kiyo A. Matsumoto
United States District Judge
United States District Courthouse
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: *LaFlamme v. Deutsche Lufthansa AG, et. al*
Case No. 08-cv-01079-KAM-JO**

Dear Judge Matsumoto:

We represent the plaintiffs in the above-referenced matter and write with respect to the supplemental filing of defendants UAL Corporation and United Air Lines, Inc. ("United") of the Sixth Circuit's decision in *Tam Travel v. Delta Airlines, Inc.*, No. 07-4464 (6th Cir. Oct. 2, 2009) ("*Tam Travel*"). As an initial matter, the facts of *Tam Travel* are distinguishable from the facts at hand because here no portion of plaintiffs' claims were discharged in bankruptcy because plaintiffs did not know and could not have known of defendants' fraudulently concealed price-fixing conspiracy prior to the confirmation of United's bankruptcy plan on January 20, 2006. (See Pls.' Opp'n. Mem. at 2-4.) Plaintiffs' pre-confirmation claims were also not discharged because they were not provided adequate notice of United's bankruptcy. (See *id.* at 5.)

Even if the Court were to deem plaintiffs' pre-confirmation claims discharged, the Court should not follow the non-binding precedent set forth in *Tam Travel* as it improperly focuses on claim accrual theory, which is a statute of limitations concept, and not on whether the conspiracy continued after the bankruptcy plan was confirmed. (See *id.* at 8-9.) As plaintiffs have previously shown, the conspiracy at issue did indeed continue after the confirmation of United's bankruptcy plan until at least June 2006. (See *id.*)

Respectfully submitted,

/S/ Peter Safirstein

Peter Safirstein

cc: Counsel for all parties (by ECF)